



March 13, 2018

Aaron A. Payment,
MPA, MEd, EdD
Tribal Chairperson

Secretary Marlene Dortch
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Address:
523 Ashmun St.
Sault Ste. Marie,
MI 49783

Phone:
906.440.5937

Email

aaronpayment@saulttribe.net

FaceBook
'Aaron Payment'

RE: Sault Ste. Marie Tribe of Chippewa Indians' Opposition to draft Report and Order (WT 17-79)

Dear Chairman Pai and Members of the Commission:

As the elected Chairman of the Sault Ste. Marie Tribe of Chippewa Indians, I am writing this letter on behalf of my Tribe. My Tribe is the largest Tribe east of the Mississippi River, with over 43,000 members. Our reservation and traditional lands are located in the Upper Peninsula of Michigan.

My Tribe strongly supports the expansion of broadband services, but only in a way that respects Tribal sovereignty rights, sacred sites and culture. The draft Report and Order released on March 1, 2018, limits and narrows the obligations of the Federal Communications Commission (FCC) under the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) and restricts tribal rights secured by those laws. The draft order's approach will be detrimental to tribal governments, tribal cultural and historic resources and do very little to encourage deployment of wireless service to areas, like ours, that need it most.

The Tower Construction Notification System encourages infrastructure and development, while respecting Tribal sovereignty. This system has been in place for over a decade and has expedited the communications infrastructure build-out and dramatically eased the FCC's need to consult with Tribal Nations on individual projects by providing a mechanism for the industry to work directly with Tribal Nations to address Tribal concerns before FCC consultation would have to be invoked. The proposed changes will stop this process. Tribes will be forced to demand direct consultation with the FCC on potentially hundreds of larger tower sites that may attach religious and cultural significance to historic properties. This will result in a far slower process than the tribal-industry process.

The Commission has a trust responsibility to tribal nations, not to the wireless industry. The draft Report and Order does not reflect this trust responsibility and diminishes my Tribe's ability to protect our cultural and historic properties.

The draft Report and Order:

- (1) Concludes that small wireless facilities do not qualify as “undertakings” or “major federal actions”, thereby circumventing the protections of NHPA and NEPA;
- (2) Eliminates tribal fees for initial historic preservation assessments (which often number in the hundreds per month) by tribal governments, encouraging industry to exclusively rely on its own consultants whose understanding of Native culture is limited, rather than access the unique expertise of tribal nations with regard to impacts on their own cultural areas; and
- (3) Mischaracterizes the extent of formal consultation carried out prior to the release of the draft Report and Order by including listening sessions, briefings and other meetings that are not true consultations.

Not only will the proposed changes have the potential to harm a largely functional Tribal review process as well as Tribal cultural resources and sacred sites, the changes run counter to the intent of many laws, including the National Historic Preservation Act.

The proposed changes are morally reprehensible. If the changes are made, my Tribe and others across the United States, lose critical protections to our aboriginal lands, treaty areas, treaty rights, and oral traditions. The proposed changes signal the FCC’s rejection of Tribal Sovereignty rights and the history of the government-to-government relations between the US and the Tribal Nations.

Tribal nations have an inherent right to protect their sacred sites and cultural properties as the original stewards of these lands. The Sault Ste. Marie Tribe of Chippewa Indians as a sovereign nation places great importance on the protection and preservation of our sacred sites and culturally significant sites. Once tribal cultural and historic properties are damaged, it is often irreversible. Therefore, like other tribes throughout the country, we will have no recourse if the deployment of wireless technology results in the destruction of our tribal cultural and historic properties.

The Sault Ste. Marie Tribe urges the Commissioners vote against adopting this draft Report and Order.

Respectfully,

A handwritten signature in black ink, reading "Aaron A. Payment". The signature is written in a cursive, flowing style.

Aaron A. Payment